IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.85 OF 2007
WITH
CIVIL APPLICATION NO.129 OF 2007

Shri Dashrath Kisan Tambe. ..Appellant.

V/s.

Shri Ganesh Kashiram Ahire & Ors. ..Respondents.

Mr.R.M.Haridas for appellant.

Mr.Anilkumar Patil for respondent Nos. 1 to 3.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 26, 2007.

P.C. :

1. Heard counsel for the parties. In so far as merits of the order is concerned, I see no infirmity in the view taken by the lower Court that the plaintiff has made out prima facie case as well as balance of convenience and issue of irreparable loss is also in favour of the plaintiff. The only argument that is seriously pressed before this Court on behalf of the appellant is that the nature of injunction is such that the appellant/defendant will not be in a position to avail of even crop loan facility.

2. It is submitted that the appellant is a small

farmer and will be dependent on such financial assistance for cultivating the suit land. Besides, there is no certainty of suit being decided within reasonable time.

3. After hearing counsel for the respondent, I find substance in the stand taken by the respondent that it will be open to the appellant to apply before the trial Court to clarify the position, on a formal application moved by the appellant in that behalf. All questions on the said issue are left open to be decided by the trial Court.

4. Appeal as well as civil application disposed of on the above terms.